REMARKS

Following entry of the amendment, claims 1 and 3-4 will be pending. Claim 1 has been amended to incorporate the recitations in claim 2, which has been canceled, without prejudice or disclaimer. Accordingly, no new matter is added by the amendments provided herein.

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1 and 3-4 in condition for allowance. Applicant submits that the amendments do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were already present in the previously examined claims. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicant respectfully points out that in the final Office Action dated October 26, 2007, (Final Office Action) the Examiner relied upon a new reference and presented new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of the Amendment would allow the Applicant to reply to the new rejection and place the application in condition for allowance.

Finally, Applicant submits that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

Applicant would like to thank the Examiner for the courtesy extended to Applicant's representative during the December 10, 2007, telephone interview. As the Examiner indicated in the Interview Summary mailed December 14, 2007, the specification describes the orientation of the HC adsorbent layer on a substrate, and an

oxidizing catalyst layer on the HC adsorbent layer in sufficient detail that a drawing need not illustrate this feature. Accordingly the objection to the drawings under 37 C.F.R. § 1.83(a) should be withdrawn.

The Examiner has rejected claims 1-4 under 35 U.S.C. § 103(a) as allegedly "being unpatentable over" U.S. Patent No. 5,804,148 ("Kanesaka") in view of U.S. Patent No. 5,108,716 ("Nishizawa") and further in view of U.S. Patent No. 6,047,544 ("Yamamoto"). Final Office Action at 3. Applicant respectfully traverses the rejection for at least the following reasons.

The Examiner has not established a *prima facie* showing of obviousness. Several basic factual inquires must be made in order to determine whether the claims of a patent application are obvious under 35 U.S.C. § 103. These factual inquiries, set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), require the Examiner to:

> (1) Determine the scope and content of the prior art;
> (2) Ascertain the differences between the prior art and the claims in issue;
> (3) Resolve the level of ordinary skill in the pertinent art; and
> (4) Evaluate evidence of secondary considerations.

The obviousness or non-obviousness of the claimed invention is then evaluated in view of the results of these inquiries. *Graham*, 383 U.S. at 17-18, 148 USPQ 467; *see also KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1734 (2007).

As Applicant previously pointed out, in order to satisfy the initial burden of establishing a *prima facie* case of obviousness, the examiner must:

> make a determination whether the claimed invention "as a whole" would have been obvious at that time to that person. Knowledge of applicant's disclosure must be put aside in

> reaching this determination, yet kept in mind in order to determine the "differences," conduct the search and evaluate the "subject matter as a whole" of the invention. The tendency to resort to "hindsight" based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.

M.P.E.P. § 2142. Here, Kanesaka, Nishizawa, and Yamamoto fail to teach or suggest all of Applicant's claim limitations. Specifically, Kanesaka, Nishizawa and Yamamoto fail to teach or suggest that "a loading amount of the high loading portion of the three-way catalyst is twice or more of a loading amount of the ordinary portion of the three-way catalyst." Indeed, the Examiner admits this deficiency in the references on page 4 of the Final Office Action. Moreover, there is no teaching in Kanesaka, Nishizawa, and Yamamoto that would have led one of ordinary skill in the art to select the claimed loading amount, with any reasonable expectation of success, and without the benefit of hindsight.

Additionally, "[a] greater than expected result is an evidentiary factor pertinent to the legal conclusion of obviousness." *In re Corkill*, 711 F. 2d 1496, 226 U.S.P.Q. 1005 (Fed. Cir. 1985). Applicant submits that one of ordinary skill in the art would not have expected the "multiplier effect" obtained by the claimed apparatus. One of ordinary skill in the art would have expected only a cumulative effect of the upstream and downstream catalysts. Applicant directs the Examiner's attention to Figure 3 of the present specification, which compares Experimental Example No. 1 (EE1) and Comparative Example No. 1 (CE1). As shown in Fig. 3, the apparatus of the present

invention does not exhibit merely the sum of both catalysts' effect, but rather, exhibits a multiplier effect thereof.

Figure 3 shows that the difference (ΔA) of HC amount in an outlet gas of HC adsorption-purifying catalyst is larger than the difference (ΔB) of HC amount in an inlet gas of HC adsorption-purifying catalyst ($\Delta B < \Delta A$). The difference (ΔB) of HC amount in an inlet gas of HC adsorption-purifying catalyst indicates the effect due to a three-way catalyst in which a noble metal is loaded on an upstream side in high concentration. However, the difference (ΔA) of HC amount in an outlet gas of HC adsorption-purifying catalyst indicates the effect due to a three-way catalyst in which a noble metal is loaded on an upstream side in high concentration, and the effect due to HC adsorption-purifying catalyst disposed on a downstream side. Since EE1 and CE1 use the same HC adsorption-purifying catalyst disposed on a downstream side, it is apparent that the present invention exhibits a multiplier effect due to the position of the second adsorption-purifying catalyst. One of ordinary skill in the art would not have expected such a multiplier effect, as demonstrated by the presently claimed invention. Accordingly, the Examiner has not established a *prima facie* case of obviousness. Since the Examiner has not established a *prima facie* case of obviousness with respect to independent claim 1, she also has not established a *prima facie* case with respect to the dependent claims, further rendering this rejection improper.

Accordingly, Applicant respectfully requests the withdrawal of the § 103(a) rejection.

In view of the above amendments and remarks, Applicant respectfully requests reconsideration of this application, and the timely allowance of the pending claims.

If the Examiner believes a telephone conference could be useful in resolving any of the outstanding issues, he is respectfully urged to contact Applicant's undersigned counsel at 202-408-4325.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: March 26, 2008

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